

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PATRICK LAWRENCE
HENDERSON,

Defendant.

CR 09-74-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Patrick Lawrence Henderson (Henderson) has been accused of violating the conditions of his supervised release. Henderson admitted all of the alleged violations. Henderson's supervised release should be revoked. Henderson should be placed in custody for 21 months, with 15 months of supervised release to follow. Henderson's term of custody should run consecutive to the sentence he received in the Montana Eighth Judicial District Court, Cascade County on June 24, 2019.

II. Status

Henderson pleaded guilty to being a Felon in Possession of a Firearm on October 8, 2009. (Doc. 19). The Court sentenced Henderson to 117 months of

custody, followed by 3 years of supervised release. (Doc. 29). Henderson's current term of supervised release began on September 26, 2018. (Doc. 52 at 1).

Petition

The United States Probation Office filed an Amended Petition on July 1, 2019, requesting that the Court revoke Henderson's supervised release. (Doc. 52). The Amended Petition alleged that Henderson had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to report for mental health treatment; and 3) by committing another crime. (Doc. 52). The undersigned issued a warrant for Henderson's arrest.

Initial Appearance

Henderson appeared before the undersigned for his initial appearance on July 17, 2019. Henderson was represented by counsel. Henderson stated that he had read the petition and that he understood the allegations. Henderson waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation Hearing

The Court conducted a revocation hearing on July 17, 2019. Henderson admitted that he had violated the conditions of his supervised release: 1) by failing

to report for substance abuse testing; 2) by failing to report for mental health treatment; and 3) by committing another crime. The violations are serious and warrant revocation of Henderson's supervised release.

Henderson's violations are Grade A violations. Henderson's criminal history category is VI. Henderson's underlying offense is a Class C felony. Henderson could be incarcerated for up to 24 months. Henderson could be ordered to remain on supervised release for up to 36 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 33 to 41 months.

III. Analysis

Henderson's supervised release should be revoked. Henderson should be incarcerated for 21 months, with 15 months of supervised release to follow. Henderson's term of custody should run consecutive to the sentence he received in the Montana Eighth Judicial District Court, Cascade County on June 24, 2019. Henderson's supervised release conditions should include a condition that requires Henderson to be subject to location monitoring as directed by the United States Probation Office. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Henderson that the above sentence would be

recommended to Judge Morris. The Court also informed Henderson of his right to object to these Findings and Recommendations within 14 days of their issuance.

The Court explained to Henderson that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. The Court also explained to Henderson that he had the right to allocute before Judge Morris.

The Court **FINDS:**

That Patrick Lawrence Henderson has violated the conditions of his supervised release by failing to report for substance abuse testing, by failing to report for mental health treatment, and by committing another crime.

The Court **RECOMMENDS:**

That the District Court revoke Henderson's supervised release and commit Henderson to the custody of the United States Bureau of Prisons for a term of imprisonment of 21 months, with 15 months of supervised release to follow. Henderson's term of custody should run consecutive to the sentence he received in the Montana Eighth Judicial District Court, Cascade County on June 24, 2019. Henderson's supervised release conditions should include a condition that requires Henderson to be subject to location monitoring as directed by the United States Probation Office.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will

make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 17th day of July, 2019.



John Johnston
United States Magistrate Judge